

BEFORE THE FEDERAL ELECTION COMMISSION

July 18th, 2016

American Democracy Legal Fund
455 Massachusetts Avenue, NW
Washington, DC 20001

MUR # 7119

Complainant,

v.

Americans for Liberty and Free Enterprise and Gary F. Fox II, Treasurer
300 Massachusetts Avenue NW, Suite 912
Washington, DC 20001

Mr. Donald J. Trump
725 Fifth Avenue
New York, New York 10022

Donald J. Trump for President, Inc. and Timothy Jost, Treasurer
725 Fifth Avenue
New York, New York 10022

Respondents.

OFFICE OF GENERAL
COUNSEL

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COMMISSION

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Americans for Liberty and Free Enterprise PAC ("ALFE") and its Treasurer, Gary F. Fox II, in his official capacity; Donald J. Trump ("Trump"); and Donald J. Trump for President, Inc., and its treasurer, Timothy Jost, in his official capacity (collectively, "Respondents"), for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission ("FEC" or "Commission") regulations. ALFE impermissibly contributed to and coordinated with the Donald J. Trump for President campaign by paying for a campaign rally that featured staffers from Trump's campaign.

1. FACTUAL BACKGROUND

Donald J. Trump is a declared candidate for United States President and is the presumptive nominee of the Republican Party. His principal campaign committee is Donald J. Trump for President, Inc. ALFE is an independent expenditure-only committee or Super PAC supporting or opposing more than one federal candidate.¹ Bryan Crosswhite is its Custodian of Records Gary F. Fox is its treasurer.² ALFE failed to file a year-end report.³ ALFE also recently failed to file its April Quarterly Report.⁴ On July 6, 2016, ALFE sponsored a Trump for President campaign unity rally that included speeches from Juli Haller, a Trump for President campaign staffer.⁵

II. LEGAL ANALYSIS

It is clear that Respondents are engaging in impermissible contributions and coordination. Federal law treats expenditures by a non-party, non-candidate sponsor that are coordinated with a campaign as in-kind contributions to the candidates or political party with whom they were coordinated. Specifically, "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate."⁶ Under 11 C.F.R. § 109.20(b), "[a]ny expenditure that is coordinated . . . but that is not made for a coordinated

¹ See FEC Form 1, Statement of Organization, Americans for Liberty and Free Enterprise (June 2, 2015), available at <http://docquery.fec.gov/pdf/528/201511030300031528/201511030300031528.pdf>.

² *Id.*

³ See FEC Request for Additional Information, Failure to File (Year-End): Americans for Liberty and Free Enterprise (Feb. 19, 2016), http://docquery.fec.gov/cgi-bin/fecimg?_201602200300037805+0.

⁴ See FEC Request for Additional Information, Failure to File (April Quarterly): Americans for Liberty and Free Enterprise (May 3, 2016), http://docquery.fec.gov/cgi-bin/fecimg?_201602200300037805+0.

⁵ Norman K. Styer, "Trump Supporters Gear Up for Loudoun Campaign," Loudoun Now (July 7, 2016), <http://loudounnow.com/2016/07/07/trump-supporters-gear-up-loudoun-campaign/>; see also Hannah Dellinger, "Loudoun Republican leaders to host Trump 'Unity Rally' in Leesburg", Loudoun Times-Mirror (July 6, 2016), <http://www.loudountimes.com/news/article/loudoun-republican-leaders-to-host-trump-unity-rally-in-leesburg>.

⁶ 52 U.S.C. § 30116(a)(7)(B)(i).

communication . . . is either an in-kind contribution to, or a coordinated party expenditure with respect to, the candidate or political party committee with whom or with which it was coordinated and must be reported as an expenditure made by that candidate or political party committee[.]” Because an independent expenditure-only committee does not adhere to any contribution limitations or source restrictions, it cannot make in-kind contributions to a candidate’s campaign committee.

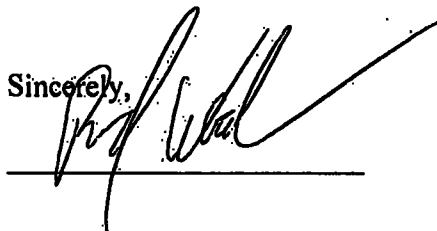
Here, however, respondents have done just that. ALFE is an independent expenditure-only political committee that may not cooperate, consult, or act in concert with, or at the request or suggestion of, any candidate or authorized committee or agent thereof with regard to its independent expenditures. ALFE incurred and paid for campaign expenses for which a campaign is obligated to pay and made impermissible contributions to the Donald J. Trump for President campaign committee. Furthermore, it appears as if ALFE has been openly coordinating its activity with Trump’s campaign committee. ALFE’s failure to file the required reports with the FEC hinders the public’s ability to assess the extent of the illegal activity in which Respondents are engaging, frustrating the disclosure requirements proscribed by federal law and regulations. Thus, the FEC should investigate whether ALFE has been coordinating with Donald Trump and Donald J. Trump for President, Inc., and whether Donald J. Trump for President, Inc. has accepted and ALFE has made any illegal in-kind contributions to Trump’s campaign. Furthermore, the FEC should investigate ALFE’s failure to file the required disclosure reports.

III. CONCLUSION

As we have shown, Respondents have violated the Federal Election Campaign Act. We respectfully request the Commission to investigate these likely violations, including whether they

were knowing and willful. Should the Commission determine that Respondents have violated the Act, we request that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



SUBSCRIBED AND SWORN to before me this 18th day of July, 2016.



Notary Public

My Commission Expires: 10/31/2020

